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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,102	01/31/2001	Lisa S. Martin	M-9863 US DC-02830	1750
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HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720				
EXAMINER JASMIN, LYNDIA C				
ART UNIT			PAPER NUMBER	

3627

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/773,102

Applicant(s)

MARTIN ET AL.

Examiner

Lynda Jasmin

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Amendment received October 23, 2003 has been acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Hennig et al. (6,587,827).

Hennig et al. discloses a method of ordering material with the steps of: considering the quantity of a material available from a plurality of suppliers (via receiving invention-synchronization event with the updated inventory to the client), identifying a supplier to receive an order for the material based upon considering (via the information received is used for picking a preferred supplier for a given order event) (col. 7, lines 18-30 and col. 5, lines 52-55), and sending electronically an order for the material to the supplier identified to receive the order (via directing an order event from the server to the preferred supplier) (col. 6, lines 33-34). Hennig et al. further discloses the method where the order requires delivery of the material within a specified period of time, which

is less than one day (via shipping on the same day that the order is placed) (col. 6, lines 38-40).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, 3, 7-9, 11-15, 17-20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig et al., in view of Lemchen et al. (6,594,642 B1).

Hennig et al. further discloses sending the order to a supplier logistics center where the material is received from the supplier (as illustrated in Tables 1 and 2, shipment documents are printed with logistics charges and detailed information regarding the order event to a distribution center which physically ship the material to

location). However, Hennig et al. fails to explicitly disclose a manufacturer realizes a demand for a material after orders are received from customers, where fulfilling the orders requiring assembling a products, and assembling the material/computer system at an assembling/manufacturing facility from the material received at the assembly/manufacturing facility.

Lemchen discloses the concept of ordering and manufacturing personalized products where orders requiring manufacturing are fulfills and machine instruction are sent to the assembling line or a robotic machine at a manufacturing facility.

From this teaching of Lemchen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modify the method of ordering goods from a preferred supplier of Hennig et al. to include the online ordering and to manufacture product according to machine instruction generated from customer specification as taught by Lemchen in order to facilitate selection of product without keeping a large inventory at a manufacturer facility.

6. Claims 4, 10, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig et al. in view of Lemchen, and further in view of Peterson et al. (6,539,360 B1)

The Hennig et al. and Lemchen combination discloses the elements of the claimed invention, but fails to explicitly disclose taking title/ownership by the manufacturer to a material after the material is shipped by a supplier.

Peterson et al. discloses the concept of where suppliers are authorized by the manufacturer of an item to distribute the item.

From this teaching of Peterson et al, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of ordering and distributing goods of the Hennig et al. and Lemchen combination to include the manufacturing product ownership taught by Peterson et al. in order to provide complete access of product inventory by a manufacturer.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 7, 13 are 19 have been considered but are moot in view of the new ground(s) of rejection. The Patent to Hennig et al. discloses the steps of identifying a preferred supplier to receive an order for the material *based upon the inventory of material available from a plurality of supplies* (as disclosed in col. 7, lines 18-30 and col. 5, lines 52-55; the information received is used for picking a preferred supplier for a given order event).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

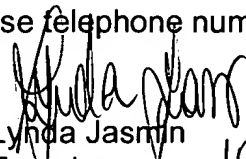
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

  
Lynda Jasmin  
Examiner  
Art Unit 3627  
10/28/03